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असाधारण

EXTRAORDINARY

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PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on the 4th December, 1970:—

BILL No. 126 OF 1970

A Bill to provide for the establishment of a Newspaper Finance Corporation for rendering financial assistance to small and medium newspapers and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the Newspaper Finance Corporation Act, 1970.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "Board" means the Board of directors of the Corporation;

(*b*) "Corporation" means the Newspaper Finance Corporation established under section 3;

(c) "medium newspaper" means a daily, bi-weekly, tri-weekly or weekly newspaper, the average circulation of which exceeds,—

(*i*) in the case of a bi-weekly, tri-weekly or weekly newspaper, five thousand copies,

(*ii*) in the case of a daily newspaper, fifteen thousand copies,

but does not exceed, in any case, fifty thousand copies;

(*d*) "newspaper" means any printed periodical work containing public news or comments on public news, but does not include any printed periodical work which, or a major part of which, contains exclusively news relating to sports, or technical, professional, economic or financial matters, or all or any of them;

(*e*) "small newspaper" means a daily, bi-weekly, tri-weekly or weekly newspaper, the average circulation of which exceeds,—

(*i*) in the case of a bi-weekly, tri-weekly or weekly newspaper, two thousand copies, but does not exceed five thousand copies,

(*ii*) in the case of a daily newspaper, five thousand copies, but does not exceed fifteen thousand copies;

(*f*) "prescribed" means prescribed by rules made under this Act.

CHAPTER II

INCORPORATION OF NEWSPAPER FINANCE CORPORATION AND ITS CAPITAL

Establishment and incorporation of Newspaper Finance Corporation.

3. (*1*) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established for the purposes of this Act a Corporation to be known as the Newspaper Finance Corporation.

(*2*) The Corporation shall be a body corporate with the name aforesaid, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, movable and immovable, and to contract, and may by that name sue or be sued.

Head office and other offices.

4. The Corporation shall establish its head office at Delhi or such other place as the Central Government may specify in this behalf and may, with the previous approval of the Central Government, establish other offices at other places in India.

Capital of Corporation.

5. (*1*) **The authorised capital of the Corporation shall be rupees three crores, to be provided by the Central Government, out of which rupees one crore shall be subscribed by that Government in the first instance.**

(*2*) The Central Government shall, after a loan of a sum of rupees one crore has been advanced by it, under section 19, to the Corporation, subscribe to the capital of the Corporation a further sum of rupees one crore, and shall, after a further loan of a sum of rupees one crore has been advanced by it to the Corporation, subscribe a further sum of rupees one crore to the capital of the Corporation.

(*3*) The entire capital of the Corporation shall stand vested in, and allotted to, the Central Government.

CHAPTER III

MANAGEMENT OF THE CORPORATION

Management.

6. (*1*) The general superintendence, direction and management of the affairs and business of the Corporation shall vest in the Board which may exercise all the powers and discharge all the functions which may be exercised or discharged by the Corporation.

(*2*) The Board, in discharging its functions, shall act on business principles, regard being had to the interests of the general public.

Board to be guided by directions of Central Government.

7. In the discharge of its functions, the Board shall be guided by such directions in matters of policy as the Central Government may give to it in writing.

Constitution of Board.

8. (*1*) The Board shall consist of a Chairman and four other directors who shall be appointed by the Central Government.

(*2*) Out of the directors appointed under sub-section (*1*), not more than one shall be an officer of the Central Government.

Conditions of service.

9. (*1*) The Chairman and the other directors shall hold office during the pleasure of the Central Government and the period of such office, unless terminated earlier, shall be two years.

(*2*) Subject to the provisions of sub-section (*1*), the conditions of service of the Chairman and the other directors shall be such as may be prescribed.

(*3*) It is hereby declared that the office of the Chairman or any other director shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament or of any Legislature of a State.

(*4*) The Chairman and the other directors shall be eligible for re-appointment.

Disqualification.

10. No person shall be a director, who,—

(*a*) is an employee of a newspaper or has a substantial interest in any newspaper, or

(*b*) is, or at any time has been, adjudged insolvent or has suspended payment of his debts or has compounded with his creditors, or

(*c*) is of unsound mind and stand so declared by a competent court, or

(*d*) is or has been convicted of an offence, which, in the opinion of the Central Government, involves moral turpitude.

Explanation.—For the purposes of clause (*a*), a person shall be deemed to have substantial interest in a newspaper if he—

(*i*) owns the newspaper, or

(*ii*) holds not less than twenty-five per cent. of the subscribed capital of the company which owns the newspaper, or

(*iii*) has lent to, or given any guarantee or provided any security in connection with any loan to, the newspaper where the aggregate of the amount of such loan is not less than fifty thousand rupees.

Vacation and resignation of office by directors.

11. (*1*) If a director,—

(*a*) becomes subject to any of the disqualifications specified in section 10, or

(*b*) is absent without leave of the Board for more than three consecutive meetings thereof,

his seat shall thereupon become vacant.

(*2*) The Chairman or any other director may resign his office by giving notice thereof in writing to the Central Government, and on such resignation being accepted, shall be deemed to have vacated his office.

(*3*) A casual vacancy arising under sub-section (*1*) or sub-section (*2*) or for any other reason shall be filled by fresh appointment, and a director so appointed shall hold office for the remainder of the period for which the director in whose place he is appointed would have held office.

Meetings of Board.

12. (*1*) The Board shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

(*2*) Three directors personally present at any meeting of the Board shall be the quorum for such meeting.

(*3*) If, for any reason, the Chairman of the Board is unable to attend any meeting of the Board, the directors present at the meeting shall elect one of them to preside at the meeting.

(*4*) All questions which may come up before any meeting of the Board shall be decided by a majority of votes of the directors present and voting, and in the case of equality of votes, the Chairman of the Board or in his absence, the person presiding, shall have a second or casting vote.

Defect in appointment not to invalidate acts, etc.

13. (*1*) No act or proceeding of the Board shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the Board.

(*2*) No act done by any person acting in good faith as a director shall be deemed to be invalid merely on the ground that he was, at the time when such act was done, disqualified to be a director or that there was any other defect in his appointment.

Fees and allowances of directors.

14. Every director shall be paid such fees and allowances as the Board may, by regulations, determine, for attending the meetings of the Board or attending to any other work of the Corporation:

Provided that no such fees shall be paid to a whole-time Chairman or to any other director who is an officer of the Central Government.

Appointment of General Manager.

15. The Board shall appoint a General Manager who shall—

(*a*) be a whole-time officer,

(*b*) possess such qualifications as may be determined by regulations,

(c) perform such duties as the Board may by regulations or otherwise entrust to him, and

(d) receive such salary and allowances as may be determined by regulations.

Staff of Board.

16. The Board may appoint officers and other employees as it may consider necessary for the efficient discharge of the business of the Corporation and determine, by regulations, the conditions of their service.

Authentication of orders and other instruments of Board.

17. All orders and decisions of the Board shall be authenticated by the signature of the Chairman or any other director authorised by the Board in this behalf and other instruments issued by the Board shall be authenticated by the signature of the (General Manager or any other officer of the Board authorised in like manner in this behalf.

CHAPTER IV

FUND AND BUSINESS OF THE CORPORATION

Fund of Corporation.

18. (1) The Corporation shall have its own Fund, and all receipts of the Corporation shall be credited thereto and all payments of the Corporation shall be met therefrom.

(2) The Fund shall consist of—

(a) all moneys received by the Corporation from the Central Government; and

(b) any other sums received by it under this Act, whether by way of interest or otherwise.

(3) The Board shall deposit all moneys belonging to the Fund in the Reserve Bank of India or the State Bank of India or in such scheduled bank as may be approved in this behalf by the Central Government.

(4) The Corporation may invest any money for the time being standing to the credit of the Fund in any Government security or in any other security approved by the Central Government.

Loans to Corporation by Central Government.

19. (1) The Central Government may, after due appropriation made by Parliament by law in this behalf, advance such loan to the Corporation as it may deem necessary to enable the Corporation to perform its functions under this Act, and every loan so advanced shall be on such terms and conditions as the Central Government may determine:

Provided that the aggregate amount of the loan advanced to the Corporation by that Government shall not, at any time, exceed three crores of rupees.

(2) Every loan advanced by the Central Government to the Corporation, together with interest due thereon, shall be repayable in ten equal annual instalments commencing from the date on which the loan was received by the Corporation:

Provided that the Central Government may, on request being made to it by the Corporation, increase the number of instalments or alter the amount of any instalment or vary the date on which any instalment is payable.

(3) Every loan advanced by the Central Government to the Corporation under sub-section (1) shall carry interest at the same rate at which loans are advanced by that Government on the date of such loan.

Business which Corporation may transact.

20. The Corporation may advance loan to any small or medium newspaper to enable it to expand its circulation, or to purchase newsprint, printing machinery or any other equipment which may be required for its printing or publication:

Provided that the aggregate amount of such loan to any one newspaper shall not, at any time, exceed the sum of rupees twenty lakhs.

Loan by Corporation to small or medium newspapers.

21. (1) Subject to the provisions contained in section 20, no loan shall be granted by the Corporation of an amount exceeding seventy-five per cent. of the net value of the assets of the borrowing newspaper and of any other property offered as collateral security by the borrowing newspaper or any other person interested in the loan, after deducting, in both cases, the existing incumbrances, the value of such assets and property being ascertained by such independent valuer of standing as may be appointed by the Central Government and every such valuation shall be made in such manner, and in accordance with such principles of valuation, as may be prescribed.

(2) The Corporation while dealing with any application of a newspaper for a loan, shall not take the ideology or views editorially expressed in such newspaper into consideration.

Loan by Corporation how secured.

22. The Corporation, shall ensure that every loan advanced by it to a newspaper is secured by a mortgage of the whole or such portion of the assets of the borrowing newspaper as it may consider sufficient, and where the whole of such assets is not considered sufficient by the valuer, the Corporation shall obtain such collateral security as may be offered by the borrowing newspaper or any person interested in the loan.

Corporation to charge interest for loan.

23. (1) The loan advanced by the Corporation to a small or medium newspaper shall carry interest at a rate which shall exceed by five per cent. the rate of interest at which loans were advanced to it by the Central Government:

Provided that if the borrowing newspaper makes repayment of any instalment of loan together with interest due thereon on or before the date on which such instalment was payable, the rate of interest payable on such instalment of the loan shall be reduced by two-and-a-half per cent.

(2) The interest due on any instalment of loan advanced to any small or medium newspaper shall be payable annually and no moratorium shall be granted in respect of such interest.

Duration of loan advanced by Corporation.

24. Every loan advanced by the Corporation to a small or medium newspaper shall be repayable, together with interest due thereon, in ten equal annual instalments.

Loan not to be advanced in certain cases.

25. (1) No loan shall be advanced by the Corporation to any small or medium newspaper,—

(a) in which any director of the Board is directly or indirectly interested;

(*b*) which is owned or controlled by a political party for being used as an instrument or organ for the propagation of the policy, programme or ideology of such political party;

(*c*) which has printed or published any matter leading to the conviction of the writer or editor for any offence punishable under section 153A, 294, 295A or 505, of the Indian Penal Code within one year immediately preceding the date on which the application for the loan is made, the conviction not having been set aside;

45 of 1860.

(*d*) which has been censured by the Press Council of India under section 13 of the Press Council Act, 1965 in respect of any writing within one year immediately preceding the date on which an application for the loan is made;

34 of 1965.

(*e*) which has received or is receiving assistance (whether financial or otherwise), directly or indirectly, from any foreign Government, organisation or individual.

(*2*) No loan shall be granted by the Corporation for the starting, for the first time, of any newspaper.

Recovery of money due to Corporation.

26. Where any amount is due to the Corporation in respect of a loan advanced by it to any small or medium newspaper, the Corporation or any person authorised by it in writing in this behalf, may, without prejudice to any other mode of recovery, make an application to the Central Government for the recovery of the amount due to the Corporation, and if the Central Government or such authority, as that Government may specify in this behalf, is satisfied after following such procedure as may be prescribed that any amount is so due, it may issue a certificate for that amount to the Collector concerned who shall proceed to recover the said amount in the same manner and under the same conditions, as if the said amount were an arrear of land revenue:

Provided that the good-will of the small or medium newspaper shall not be sold in the event of the proceedings for the recovery of arrears of land revenue resulting in the sale of the assets of the said newspaper.

CHAPTER V

ACCOUNTS, AUDIT AND RETURN

Accounts.

27. (*1*) The balance-sheet and accounts of the Corporation shall be prepared and maintained in such form and manner as may be prescribed.

(*2*) The Board shall cause the books and accounts of the Corporation to be balanced and closed on the thirtieth day of June each year.

Audit.

28. (*1*) The accounts of the Corporation shall be audited by an auditor duly qualified to act as an auditor under sub-section (*1*) of section 226 of the Companies Act, 1956, who shall be appointed by the Central Government in consultation with the Comptroller and Auditor General of India.

1 of 1956.

(*2*) The Corporation shall supply its auditor with a copy of its annual balance-sheet and it shall be the duty of the auditor to examine such balance-sheet together with the accounts and vouchers relating thereto and

he shall have a list delivered to him of all books kept by the Corporation and shall at all reasonable times have access to the books, accounts, vouchers and other documents of the Corporation.

(3) The auditor may, in relation to the accounts of the Corporation of which he is the auditor, examine any director or any officer or employee of the Corporation, and shall be entitled to require from any officer of the Corporation such information or explanation as he may think necessary for the performance of his duties.

(4) The auditor shall make a report to the Corporation upon the annual balance-sheet and accounts examined by him and in every such report he shall state whether in his opinion the accounts exhibit a true and fair view,—

(*a*) in the case of the balance-sheet, of the state of affairs of the Corporation at the end of the year, and

(*b*) in case he had called for an explanation or information from the Corporation, whether it has been given and whether it is satisfactory.

(5) Without prejudice to anything contained in the preceding sub-sections, the Comptroller and Auditor General of India may, if so requested by the Central Government, examine and report upon the accounts of the Corporation and any expenditure incurred by him in connection with such examination and report shall be payable by the Corporation to the Comptroller and Auditor General of India.

Disposal of profits.

29. After making provision for bad and doubtful debts, depreciation in assets, contributions to staff and superannuation funds and all other matters for which provision is necessary under any other law or which are usually provided for by financial institutions, the Corporation shall transfer the balance of profits to the Central Government.

Returns.

30. (1) The Corporation shall furnish, from time to time, to the Central Government such returns as that Government may require.

(2) The Corporation shall furnish to the Central Government within three months from the date on which the annual accounts of the Corporation are closed, or within such further time, not exceeding one month as that Government may specify, a copy of its balance-sheet as on the close of that year, audit report, a report of the working of the Corporation during the year and copies of the said balance-sheet, audit report and report of the working of the Corporation shall be laid before each House of Parliament.

CHAPTER VI

MISCELLANEOUS

Declaration of fidelity and secrecy.

31. Every Chairman, director, officer or other employee of the Corporation shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the Schedule.

Indemnity of Directors.

32. Every director shall be indemnified by the Corporation against all losses and expenses incurred by him in the discharge of his duties except such as are caused by his own wilful act or default.

Protection of action taken in good faith.

33. No suit or other legal proceeding shall lie against the Central Government or the Corporation or any director or officer of the Corporation or any other person authorised by the Corporation to discharge any functions under this Act, for any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act.

Directors, etc., to be public servants.

34. Every director of the Corporation and every officer or other employee appointed by the Corporation shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Provisions relating to income-tax.

43 of 1961.

35. For the purposes of the Income-tax Act, 1961, the Corporation shall be deemed to be an Indian Company and a company in which the public are substantially interested.

Delegation of powers.

36. The Board may, by general or special order, delegate to the Chairman or General Manager or any other officer of the Corporation subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and duties under this Act as it may deem necessary.

Power of Central Government to make rules.

37. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) conditions of service of the Chairman and the other directors;

(*b*) rules of procedure with regard to the transaction of business at the meeting of the Board;

(*c*) the manner in which the value of the security offered is to be ascertained;

(*d*) procedure for determining the amount due to the Corporation from a small or medium newspaper;

(*e*) the form and the manner in which the balance-sheet and accounts shall be prepared and maintained; and

(*f*) any other matter which is required to be, or may be, prescribed.

(*3*) Every rule made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions and, if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of Board to make regulations.

38. (*1*) The Board may make regulations not inconsistent with the provisions of this Act and the rules made thereunder to provide for all matters for which provision is necessary or expedient, for the purpose of giving effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such regulations may provide for all or any of the following matters, namely:—

(*a*) fees and allowances which may be paid to every director for attending any meeting of the Board;

(*b*) qualifications for being appointed as the General Manager;

(*c*) duties, conduct, salaries and allowances and conditions of service of General Manager and other officers and employees of the Corporation;

(*d*) establishment and maintenance of provident and other benefit funds for the employees of the Corporation; and

(*e*) any other matter which is, or may be, necessary for the efficient conduct of the affairs of the Corporation.

THE SCHEDULE

(*See* section 31)

DECLARATION OF FIDELITY AND SECRECY

I,....., do hereby declare that I will faithfully, truly and to the best of my judgment, skill and ability, execute and perform the duties required of me as a director, officer or employee (as the case may be) of the Newspaper Finance Corporation and which properly relate to any office or position in the said Corporation held by me.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the Corporation nor will I allow any such person to inspect or have access to any books or documents belonging to or in the possession of the Corporation and relating to the business of the Corporation.

Signature.....

Signed before me.
Date.....

STATEMENT OF OBJECTS AND REASONS

One of the main difficulties in the way of the growth and development of small and medium newspapers on healthy lines is the lack of adequate finances. The Enquiry Committee on Small Newspapers, which went into this question, recommended the setting up of a finance corporation by the Government of India to provide credit facilities to small and medium newspapers for purchasing printing machinery, newsprint, buildings, etc. The Press Council have also advised that the long-term solution for the problem, posed by newspapers which are ailing financially, would be for Government to form a finance corporation with an independent Board with power to help such newspapers.

2. In furtherance of the above objective, it has been decided to set up a Newspaper Finance Corporation to extend financial assistance in the shape of interest bearing loans to small and medium newspapers without, in any way, attempting to interfere with the freedom of the Press. The Bill seeks to establish such a Corporation.

SATYA NARAYAN SINHA.

NEW DELHI;
The 20th November, 1970.

FINANCIAL MEMORANDUM

The Bill contemplates the setting up of a Newspaper Finance Corporation to extend financial assistance in the shape of loans, carrying interest to newspapers published daily, bi-weekly, tri-weekly or weekly, whose average circulation does not exceed 50,000 copies. The total (equity) capital of the Corporation will be Rs. 3 crores, to be invested entirely by Government, out of which Rs. 1 crore will be initially invested (*vide* clause 5).

2. Central Government will also grant loans to the Corporation, as may be found necessary from time to time; the total amount of such loans will not exceed Rs. 3 crores at any point of time (*vide* clause 19).

3. The investment by Government in the Equity Capital of the Corporation and the grant by Government of Loans to the Corporation, will be made alternately, and according to the amounts required from time to time. After the initial investment by Government to the Corporation will be in the shape of loans till the next Rs. 1 crore is reached. Thereafter payments will be in the shape of Equity Capital till the next Rs. 1 crore is reached; and so on.

4. Provision has been made in the Bill for the appointment of a Chairman, 4 Directors and a General Manager who will be provided with the necessary staff to enable the Corporation to discharge its functions efficiently and expeditiously.

5. The Expenditure from the Consolidated Fund of India on account of the Corporation is estimated to be Rs. 6 crores for being invested in Equity Capital and loans (Rs. 3 crores in Equity and Rs. 3 crores in Loans) (*vide* clauses 5 and 19). It is estimated that the recurring expenditure to be incurred by the Corporation from its own income on pay and allowances, fees of Directors, travelling allowances, miscellaneous recurring contingent charges, etc., would be of the order of Rs. 4 lakhs, it will also have to incur an expenditure of the order of Rs. 50,000 initially for office equipment, furniture, typewriters, etc., to be met from its income. No provision has been made in Budget Estimates 1970-71 for any payments in respect of this Corporation (*vide* clause 14).

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 37 of the Bill empowers the Central Government to make rules to carry out the provisions of the Bill, when enacted. The matters in respect of which such rules may be made, *inter alia*, relate to the conditions of service of the Chairman and the other Directors of the Board of the Newspaper Finance Corporation, rules of procedure with regard to the transaction of business at the meetings of the Board, the manner in which the value of the security offered for obtaining a loan from the Corporation is to be ascertained, procedure for determining the amount of loan due to the Corporation from a small or medium newspaper and the form and the manner in which the balance-sheet and accounts of the Corporation shall be prepared and maintained. Sub-clause (3) of this clause provides that every rule made by the Central Government shall be laid before Parliament and shall be subject to modification by Parliament.

2. Clause 38 of the Bill empowers the Board to make regulations, not inconsistent with the provisions of the Act and the rules made thereunder, for the purpose of giving effect to the provisions of the Bill. Such regulations may provide, *inter alia*, for the fees and allowances which may be paid to every director of the Board for attending any meeting of the Board, qualifications for being appointed as the General Manager, duties, conduct, salaries and allowances and conditions of service of General Manager and other officers and employees of the Corporation and for the establishment and maintenance of provident and other benefit funds for the employees of the Corporation.

3. The matters in respect of which rules or regulations may be made are generally matters of procedure and administrative detail and it is hardly practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

S. L. SHAKDHER,
Secretary.

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